

CAN REASSESS BETTERMENTS

Enabling Act of Mass. Legislature is Constitutional.

DECISION OF FULL BENCH

In Cases Against City of Boston, Its Mayor and Street Commissioner, in Huntington Avenue Improvements.

Boston, Dec. 7.—The full bench of the supreme court held yesterday that the enabling statute of 1902, chap. 527, authorizing the city of Boston to reassess betterments, not to exceed one-half the cost of the public improvement, upon abutting property owners, for street and sewer construction completed within six years prior to the passage of the act, is constitutional.

This is the decision of the court in the cases of Winslow Warren, trustee, and of E. D. Jordan et al., trustees, vs. the mayor and street commissioners of Boston, and it is also held that the statute authorizes the reassessment of betterments for the construction of Huntington avenue and like work which was done under special legislation, even though the manner of doing the work was in violation of the special act authorizing it to be done. Huntington avenue alone will net the city \$236,139.96.

This statute does not, of course, affect any party who has already paid his betterments imposed under earlier acts which provided for the assessment upon property owners of the total cost of the street construction and betterment, and which were held unconstitutional. It applies only to those cases where the invalid assessments levied under the earlier statutes were not paid and could not be collected by the city because they were declared unlawful.

The present statute, which is more liberal to property owners, as it limits the amount of the betterment they will have to pay in any event to one-half the cost of the public improvement, will enable the city to collect a large amount of outstanding assessments which it has levied under it and which remained unpaid.

In dismissing the petitions, the court says: "It is plain that the statute was enacted to enable the city to assess betterments in cases where, on account of unconstitutionality or illegality of other defect in the statute or proceedings, a valid assessment could not otherwise be made. The fact that there were defects of different kinds which made such an enactment desirable is a sufficient reason for making it in general terms, without reference to any particular kind of defect."

"We are of opinion that the statute contemplates the making of but one valid assessment for any improvement, and that its reference to former assessments is to those that are valid. The petitions are dismissed."

The city constructed Huntington av. at a total expense of \$675,000 in disregard of the requirements of the special statute as to the mode of doing the work, and previous assessments levied by the city upon abutters under the earlier betterment statutes were declared invalid by this court because of the violation of law that entered into the cost of the work.

After that decision the enabling statute authorizing the city to generally reassess estates benefited specially by public improvements constructed within six years of its passage where former assessments were invalid and not paid, but in no case to exceed one-half the whole cost of the improvement, was enacted. The Huntington av. estates were reassessed under this statute, but the present petitioners sought to quash their assessments upon the ground that the statute was unconstitutional as applied to Huntington av., upon the ground that it authorizes the levying of betterments for work held to be illegally performed.

The illegality in the performance of the work on the avenue consisted in the then superintendent of streets failing to invite proposals for bids by advertisement without written authority from the mayor, and in not keeping the number of contracts for the whole work within five.

SHOT HIS CHUM.

Samuel Hoar Is Overcome at Concord, Mass.

Concord, Mass., Jan. 7.—A fatal accident happened late this afternoon when Samuel Hoar accidentally shot and killed Clarence E. Jones, with whom he was in a canoe on the Concord river shooting muskrats.

The boys were in the rear of Mrs. E. S. Barrett's house, near the Minute Man bridge, and Hoar, who had shot at a muskrat, was reloading the rifle.

In some way the gun was discharged and a 22-calibre bullet entered Jones' brain over the left eye.

Hoar dragged the canoe out of the water and at once telephoned for Dr. Bradley, but Jones died within a few minutes after the latter's arrival. Medical Examiner Theodore Chamberlain viewed the remains at Jones' home.

Samuel Hoar is heartbroken and has taken to his bed. He is a student at the Middlesex school, and was an intimate friend of Jones, with whom he had hunted a great deal. Hoar is the oldest son of the late Samuel Hoar.

Jones was the youngest son of R. H. Jones, and had two brothers, R. E. Jones and Beverly E., and one sister, Alice Von L. Jones. The young men were comrades in Co. I, 6th Inf., M. V. M., of this town.

Headaches and Neuralgia from Colds
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128 Summer St., Boston

Treats Constipation, Sick Headache and Biliousness in one night, uses Smith's Pineapple and Sultana Pills. Only 25 cents at dealers.

ALL GENUINE SIGNED

WILL WAIT UNTIL FALL.

Conference at White House on Extra Session to Revise Tariff.

Washington, Jan. 7.—After a conference at the White House this afternoon lasting two hours between the President and Republican managers in the House and Senate, it was practically decided that there shall be no extra session until later in the fall, if at all; that tariff revision is necessary, and that the President's recommendation to take measures to control railroad rates shall be taken up by Congress at the next session.

The men who attended the conference with Senators Allison, Aldrich, Spooner and Platt, Speaker Cannon and Representatives Payne, Dalzell, Grosvenor and Tawney.

The House men showed a strong inclination for an extra session at the earliest possible date, and the Senators opposed it. That was the first question to be decided. The members of the House held to the opinion that if tariff revision was necessary, it was advisable that it should be put into effect with the least possible delay and they pointed to the disastrous results from the passing of the McKinley bill, which became a law only a short time before the congressional election of that year.

EXTRA CANAL POSTS FILLED.

Only Those Under Civil Service Vacant.

Washington, Jan. 7.—Secretary Murphy of the Isthmian Canal Commission, today announced that all positions under the commission which, by executive order, are exempt from civil service examination have been filled and that no additional appointments can be made except through the Civil Service Commission, to which applicants should apply for information.

FUNERAL OF JAMES B. SCULLY.

Absolution by Bishop Michaud—Many Organizations in Attendance.

Burlington, Jan. 8.—The funeral of James B. Scully, doorkeeper of the House of Representatives at Washington, was largely attended at St. Mary's Cathedral at 9:30 o'clock yesterday morning. Requiem mass was celebrated by the Rev. P. J. Barrett, assisted by the Rev. P. J. Dolan, J. P. Rand, and D. J. O'Sullivan of St. Albans. The Rt. Rev. Bishop J. S. Michaud gave absolution and pronounced the eulogy.

The escort of honor consisted of St. Bernard Post, G. A. R., the Knights of Columbus, the Holy Name Society, the Mutual Benevolent Association, and the Volunteer Hose Co. Burial was in St. Joseph's cemetery.

RAILROAD WON.

Made Out in Damage Suit That Plaintiff Was Negligent.

Woodstock, Jan. 8.—In the case of Russ vs. the Central Vermont Railway, Windsor county court Saturday morning sustained the motion of the defendant for a verdict finding negligence on the part of the plaintiff and no negligence on the part of the defendant.

The jury was discharged for the term. Court business will be taken up Monday and court will finally adjourn some time next week.

STALLED TRAIN DUG OUT.

Train Was in Snow Nearly Twelve Hours Unable to Proceed.

Bennington, Jan. 7.—No mails since yesterday afternoon had arrived up to noon today. The train that left here at midnight for North Bennington was stalled four miles from here. It was dug out and got back to Bennington about noon.

THE WRITERS.

Photographs of celebrities are sometimes misleading. In a photograph Kipling looks strongly built, whereas in reality he just escapes being puny.

William Le Queux, author of "The Closed Book," is a chevalier of the Order of San Marino and a consul of the miniature republic. His Italian residence is at Villa Le Queux, near Florence.

Winston Churchill, novelist, has a superstition regarding the letter C. The titles to all his stories have been begun with that letter—Celebrity, Crisis, Cavalry, Crossing—and all have been successes.

Robert Barr, the English novelist, is such an inveterate smoker that he may be called a perfect cigarette factory. His pockets are packed out for tobacco, wrappers and patent rollers. One is set apart (zine lined, it is said) for the stubs of his cigarettes. What he does with these no one has ever been able to find out.

Cracks in Plaster.

To fill cracks in plaster mix plaster of paris with vinegar instead of water, and it will not "set" for twenty or thirty minutes. Push it into the cracks and smooth off evenly with a table knife.

Always Remember the Full Name

Laxative Bromo Quinine

Cures a Cold in One Day, Grip in 2 Days

E. W. Grove on every box, 25c

LIFE MAY HANG ON A COMMA

Punctuation Figures in Reprive to Mrs. Rogers.

HAS GOVERNOR THE POWER?

Woman Sentenced for Murder of Husband Seems to Be in a Dream Over Her Impending Fate.

Windsor, Jan. 7.—That Gov. Bell has still the power to order a stay in the execution of Mrs. Mary Rogers on Feb. 7, leading lawyers coming from county court at Woodstock expressed no doubt today. If Atty.-Gen. Fitts has given a contrary opinion, a prominent lawyer in Windsor county said tonight he would like to know where he gets the laws. It is recalled that Gov. Fairbanks reprieved John P. Phair within one-half hour of the time that was set for his execution for the murder of Mrs. Friese and the case went to the supreme court, though Phair was afterward executed, he gained a respite of several months. Like the semi-colon law in Massachusetts, a comma may make all the difference in the constitution of Vermont, and its defining of the prerogatives of the governor. The clause reads:

"And shall have power to grant pardon and remit fines, in all cases whatsoever, except in treason and murder, in which they, Governor and council, shall have power to grant reprieves, but not to pardon, until after the end of the next session of the Assembly; and except in cases of impeachment, in which there shall be no remission or mitigation of punishment, but by act of Legislature." (Chap. 2, sec. 11, Vermont constitution.)

Leading counsel said tonight: "Unlike your semicolon law in Massachusetts, our supreme court has never made a construction of this punctuation, but as it stands the interposition of the comma certainly leaves it open that the governor may pardon, after the Assembly has adjourned. Indirectly the supreme court has defined the power of the governor, in the case of Gov. Stickney's objection that the act of 1898 establishing a pardon commission was an infringement of the governor's powers. Vermont reports, Vol. 73, page 14, in regard to conditional discharge of convicts other than by the governor. Counsel urged today that no one would dispute the governor's right to reprieve if on the eve of hanging another person should be found to have done the crime. A legislative session had intervened when Gov. Fairbanks had reprieved Phair."

Mary Rogers shows no change in demeanor. Her only companion is Miss Durkee, the matron, who calls her Mabel and treats her with motherly kindness. The woman's spiritual adviser says that the woman acts and talks as if in a dream, and declares that she is not indifferent, and that the weight of the doom impending is markedly manifest.

Sheriff Peck and Supt. Oakes of the prison both declare that since going into solitary confinement in the room above the guardroom on Nov. 5, Mrs. Rogers has talked with no one from outside the walls except her mother. Suicide is impossible, they declare.

Sheriff Peck was in Windsor today but not in regard to the Rogers matter. He has the death warrant but told a reporter that he should not read it to Mrs. Rogers until the day before the execution at least. Lawyers tonight discussing habeas corpus declared that for \$1000 the case could be taken to United States supreme court and a stay obtained for so long a time at least that Mary Rogers would never hang. Windsor people declare the execution a disgrace to the state and public sentiment may be strongly moved for the prisoner if the execution is deferred.

NEW APPEAL.

Another Effort to Save Life of Mrs. Rogers.

Stamford, Conn., Jan. 7.—Mrs. William J. Bickenseder has prepared an appeal to the women of America urging them to use their influence with the governor of Vermont and the governor of Pennsylvania to save from the gallows Mary Rogers of Vermont and Kate Edwards of Pennsylvania, sentenced to be hanged for the murder of their husbands.

The appeal is based on grounds of general opposition to capital punishment as a principle.

MORE THAN 20 INJURED.

Collapse of Bridge on Stage of Opera House With Serious Results.

New York, Jan. 7.—More than 20 members of the chorus of the Metropolitan grand opera company were seriously injured tonight by the collapse of the bridge in the street scene in the opening act of "Carmen." None of the principals were on the stage at the time of the accident, and the uninjured members of the chorus heroically massed at the front of the stage and sang on in an attempt to prevent the public from learning what had happened.

The curtain was rung down as soon as possible, and Heinrich Corried, the impresario, prevented a panic by urging the great audience to remain seated and not be frightened.

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Itching, Blind, Bleeding or Protruding Piles. Your druggist will refund money if PAZO OINTMENT fails to cure you in 6 to 14 days. Fifty cents.

E. W. Grove on every box, 25c

A "SPOTTER" IN WOODSTOCK.

A Detective Employed by Town Liquor Commissioners.

Bethel, Jan. 8.—D. W. Wilbur, who was bound over last summer from Bethel to the December term of the Windsor county court to answer to a charge of selling intoxicating liquor without a license, was arraigned in court Wednesday. He entered a plea of guilty and a fine of \$300 was imposed. The execution of the sentence was sustained and Wilbur was placed under the charge of Probation Officer Southgate, which will probably be the end of the case.

There were peculiar circumstances in this case and Wilbur has already suffered a mental punishment of several months duration. He was arrested at Bethel on evidence of a detective employed by the town liquor commissioners to ferret out illegal sales.

The detective, it is said, inveigled himself into the confidence of Wilbur and visited him at his room at the hotel. At the suggestion of the detective a party was made up to play cards and the detective asked Wilbur if he didn't have something to drink, in response to which Wilbur produced some whiskey and the entire party partook. This incident was the only one against Wilbur. He has a wife and family depending on him for support at Keene, N. H.

NEIL'S OFFER.

Willing to Meet Four in the Same Ring.

San Francisco, Jan. 7.—Spurred on by the refusal of Tommy Murphy to come West to fight him, and the prospect of losing out in a match altogether, Frankie Neil, American bantamweight champion, today came out with a remarkable offer to meet Harry Forbes, Tommy Moore, Tommy Murphy, and Hughey McGovern all in the same ring on the same night.

"I can whip the entire bunch of them, one after the other, within 20 rounds," said Neil today.

"I'll take this boy, Murphy, first, and if I don't put him down for keeps within five rounds I'll quit the ring forever."

IMPORTATION OF ELANDS.

Species of Antelope to Be Introduced Into the Southwest.

The introduction of elands into the United States is likely to be attempted before long, the department of agriculture having given its approval to the idea; says the Saturday Evening Post. All that is needed is money, which congress will be asked to give. The animals, which are the largest of all antelopes, would be very valuable in the desert regions of the southwest as a source of meat supply. They require almost no water, are accustomed to forage for themselves and are quite tractable.

The eland is nearly six feet high at the shoulder when full grown and weighs 1,600 pounds. It is not particularly swift, unlike most of its congeners, and a man can sometimes overtake it by running. Its flesh is considered a delicacy. Commonly it browses in herds in the waterless deserts of South Africa, to which it is native, its ability to get along for months together without water being a mystery. To some extent doubtless it depends upon moisture derived from succulent plants, such as the wild watermelon.

There are two varieties of eland, one being reddish in color and the other, known as the Livingston eland, striped. It is one of about 200 species of antelopes found in South Africa, where animals of this genus seem to have undergone the most extraordinary differentiation. Some of them are the swiftest runners of all animals, and certain kinds are so wild and wary that hunters cannot possibly get within gunshot of them unless by the help of what is known as an artificial ostrich, a Hot-tent contrivance consisting of the skin of an ostrich arranged to disguise a man, who holds the head of the supposed bird aloft by means of a stick thrust through the neck.

Elands are becoming scarce in South Africa. Though they seem to be the most desirable species for importation into the United States, there are others which might be valuable—notably the springbok, which is a graceful creature less than three feet in height, of a beautiful fawn color, a prolific breeder and suited to the conditions, climatic and otherwise, of the arid regions of Arizona, New Mexico and southern California.

THINGS THEATRICAL.

Florence Rockwell plays a young school mistress in "Common Sense Brackett."

"One live baby" and "one kitchen long" are among the stage properties required to be furnished by the stage manager of the "Sky Farm" production.

Miss Ellen Terry has been acting in suburban London in "The Merchant of Venice" and "Erlinson's Wife," a one act piece by Christopher St. John of the most morbid sort.

"Brother Jacques" is not a masterpiece, but contains a good part for Miss Annie Russell, whose popularity will probably insure it a good run at the Garrick theater, New York.

Frank Losee is still with Bertha Galand as the cruel father, who tries to force the famous Dorothy Vernon of history and romance into a marriage with the villain of the play. Mr. Losee is one of our sterling actors.

Walter Lewis, who is giving such a clever impersonation of Tony in "The Harvester," began his actor's career as an amateur in Boston. He was seen in the Shakespearean and Sheridan revivals with Mr. Skinner last year.

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ADAMS TO BE GOVERNOR

The Colorado Legislature So Decides.

CANVAS OF VOTE BEGUN

When Completed the Democratic Candidate Will Be Proclaimed Executive—Contests to Go Over Until After the Inauguration.

Denver, Colo., Jan. 8.—It has been decided by the Legislature of Colorado to canvass the vote and declare Alva Adams, the Democratic candidate, elected on the face of the returns. All contests will go over until after the inauguration of Adams. The canvass of the vote has begun. It was expected to last until midnight, Denver time (2 a. m. eastern time). Adams will not be proclaimed governor until the canvass is finished.

When the Legislature was called to order yesterday Representative Griffith at once moved that a recess be taken until 4 o'clock. He said that the decision of the supreme court to be handed down in the afternoon would determine whether or not the committee of 15 was a legally constituted body, and incidentally settle the question of whether the speaker or the lieutenant-governor has the right to preside over the joint session. He therefore asked for the recess. It was taken, and the House ceased business. Meanwhile there were stirring times at the opposite end of the hall, where the Senate was in session. The 15 Democratic and four Republican Senators insisted that the Senate go

into joint session with the House, and that Lieut.-Gov. Haggott be seated as presiding officer. Several fiery speeches were made, and the Senate also took a recess.

CHADWICK JEWELS FOUND?

Statement That Authorities Have Located \$60,000 Worth.

Cleveland, O., Jan. 7.—The Plain Dealer says: The investigation into the charge that large quantities of diamonds and jewels were smuggled into this country by persons returning from Europe with Mrs. Cassie L. Chadwick, has resulted in the location by the United States officers of some \$60,000 worth of gems and diamonds. The admission is made that the location of the jewels had been unearthed but further than this the authorities refused to discuss the matter. It is known that there will be no immediate seizure of the property. It is reported that some of the diamonds are lying in the safety deposit vaults of certain banks in Cleveland and New York. On this point the Federal authorities would say nothing.

Washington, Jan. 7.—The comptroller of currency has in his possession an emerald ring and a diamond unburst brooch that are said to have belonged to Mrs. Chadwick. They were deposited with the Citizens' National Bank of Oberlin, O., as collateral. When the bank failed the jewelry was taken possession of by the receiver and it will be sold with the other assets of the bank. They were not deposited by Mrs. Chadwick, although it is said they once belonged to her.

572,798 IN THE STEERAGE.

Record For the Year at Ellis Island.

New York, Jan. 7.—More than half a million steerage passengers arrived at the Port of New York during the year 1904. William C. Moore, the government landing agent at Ellis Island, places the number at 572,798. Of first-class passengers there were 68,704, while 93,685 came in the second cabin.

Why not stop having so many birthdays?

You must have had sixty at least! What? Only forty? Then it must be your gray hair. Ayer's Hair Vigor stops these frequent birthdays, and gives all the early, deep, rich color to your gray hair. Sold for over sixty years.

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